

REMARKS

In response to the non-final Office Action of August 11, 2010, independent claims 1, 11, 19, 21, 22, 24, 26, 30, and 40 have been amended in a manner which is believed to particularly point out and distinctly claim the invention. Support for the amendment to the independent claims is found in the original application as filed, including Figures 1 and 2, as well as in the specification as filed, including paragraphs [0020] and [0021] of the published application. No new matter is added.

Specification

At page 2, the specification is objected to for failing to provide proper antecedent basis for the claimed subject matter.

With respect to claims 22 and 23, the phrase “computer readable storage structure” is objected to for failing to provide proper antecedent basis in the specification. Amendment has been made to claim 22 to recite that the computer program product includes a storage medium rather than the previously recited “computer readable storage structure”. Support for this amendment is found in the specification as filed, including originally submitted claim 24 and 25. Amendment has also been made to the specification at page 8, line 20 to denote that the cited memory is the same as the parenthetical storage medium as set forth in originally submitted claims 24 and 25.

Furthermore, the objection regarding claim 23 has been overcome in view of the amendment to claim 22.

Furthermore, claims 24 and 25 are objected to for the specification failing to recite “storage medium” as used in these claims. As indicated above, the originally submitted claims 24 and 25 recited a “storage medium” and therefore form part of the specification. The originally filed application at page 8, lines 18-21 indicates that the embodiments of the method for displaying a menu on a display of a mobile terminal is implemented by means of a program and that the program is saved on a “memory”. In view of original claims 24 and 25, there is support for the term “storage medium” being the equivalent to the recited “memory” in view of the fact that both the memory cited at page 8, lines 18-21, as well as originally submitted claims 24 and 25, form part of the specification as filed.

Therefore, it is respectfully submitted that the objection to claims 24 and 25 has been overcome.

Claim Rejections - 35 USC §101

At pages 2-3, claims 21 and 29 are rejected under 35 USC §101 on the grounds that they are directed to an apparatus comprising software *per se*.

Claim 21 has been amended in a manner to include the control device as recited in claim 19 and thus it is clearly not directed to software *per se* since the control device is configured to activate one of the plurality of selection elements, an activity that is clearly not software *per se*.

As such, claim 21 recites statutory subject matter, and meets at least the machine and transformation tests forming at least part of the statutory subject matter test recited in *Bilski v. Kappos*, 561 U.S. ___, 129 SCt 2735, 95 USPQ2d 1001 (2010).

Claim Rejections - 35 USC §112

Claim 30 is rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, specifically on the grounds that the term “means for” is not described in the specification. This rejection is not understood by applicants’ attorney since 35 USC §112, sixth paragraph, specifically states that an element in the claim for a combination may be expressed as a “means...for performing a specified function without the recital of structure, material, or acts in support thereof...”. Thus, with respect to claim 30, this claim is similar to apparatus claim 19. Therefore, the specific structures recited in the specification are at least those mentioned in apparatus claim 19.

Claim Rejections - 35 USC §102

At pages 3-13, claims 1-4, 6-11, 13-27, 30, and 33-45 are rejected under 35 USC §102(b) as anticipated in view of US patent 5,623,613, Rowe, et al (hereinafter Rowe).

With respect to claim 1, the Office Asserts that Rowe teaches displaying a plurality of selection elements in the manner as set forth in claim 1, with specific reference to Figures 4 and 6 of Rowe wherein it is asserted that the terms “Shopping”, “Sports”, “Comedies...” are

the same as the recited selection elements and that Figure 6 shows that the “Sport”¹ element is magnified along with four auxiliary elements; namely, up, down, right arrows, wherein at least one auxiliary element (up, down, right arrows) is hidden from the selection element prior to said activating (before the user activates (selects) the “Sports” element). In view of the amendment to claim 1, applicant respectfully disagrees.

More particularly, Rowe is directed to a system for displaying programming information, such as television programming information which is presented via a schedule display having a category display 52, a sub-category display 54, and a program display 56 as shown in Figures 2 and 3. The Office states that Figure 6 shows that the “Sport” element is magnified which is apparently premised upon the argument that when the focus frame 60 is moved over the “Sports” tile, the “Sports” tile is differentiated by the focus frame and that this focus frame has arrow tabs 67, which the Office equates to the recited auxiliary elements in claim 1.

Even assuming that the “Sports” tile is magnified (something that is hard to discern from the figures in Rowe), Rowe fails to disclose the magnifying of at least a portion of an adjacent tile (selection element), such as the “Special” or “Talk Shows” tiles as shown in Figure 2 of Rowe. Claim 1 has been amended to specifically recite that the action of displaying a magnified version of the active selection element is not only along with at least one auxiliary element, but that the action of displaying is also with respect to at least a magnified version of at least a portion of a selection element adjacent the activate selection element. This is clearly seen in Figures 1 and 2 of the present application wherein the activate selection element identified as “MESSAGING” is magnified with respect to the selection element shown in toolbar 1 along with at least a portion of an adjacent selection element, that is, the “CALENDAR” selection element which is to the right of the “MESSAGING” selection element. The magnified version of the “CALENDAR” selection element is shown adjacent to the magnified “MESSAGING” selection element that is activate. This is also shown for the embodiment of Figure 2.

Discussion of this is also set forth in the application as originally filed, including paragraph [0021] of the published application.

¹ Should be “Sports”.

Furthermore, the purpose of the focus frame 60 in Rowe is to highlight the specific tile (in this case the "Sports" tile) and not to differentiate the other tiles, such as the "Shopping", "Special", "Talk Shows", "Comedies", "Autoracing", "Baseball", "Basketball", "Bowling", and "Football" tiles adjacent and/or in the vicinity of the "Sports" tile.

Consequently, the methodology used in Rowe teaches against that of the present invention as claimed since it is intended not to differentiate any of the adjacent tiles, including any portion of the adjacent tiles.

For all of the foregoing reasons, it is therefore respectfully submitted that claim 1 as amended is neither anticipated nor suggested by Rowe.

Independent claims 11, 19, 21, 22, 24, 26, 30, and 40 have been amended in a manner similar to claim 1 and, for similar reasons, each of these independent claims is also believed to be neither anticipated nor suggested by Rowe.

Since each of the independent claims of the present application are believed to be allowable, it is respectfully submitted that dependent claims 2-4, 6-10, 13-18, 20, 23, 25, 27, 33-39, and 41-45 are also allowable, at least in view of their ultimate dependency from an independent claim which is believed to be allowable.

Claim Rejections - 35 USC §103

At pages 13 and 14, claims 29 and 32 are rejected under 35 USC §103(a) in view of Rowe in combination with US patent application publication 2004/0142720, Smethers (with respect to claim 29) or only in view of Rowe (with respect to claim 32).

Each of these dependent claims is also believed to be allowable at least in view of their dependency from independent claims 21 and 1, respectively.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited. If there are any remaining questions with respect to this response, applicants' attorney would be pleased to speak with Examiner Tran.

The undersigned respectfully submits that no fee is due for filing this Amendment. The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

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